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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35995]

South Carolina Division of Public Railways d/b/a Palmetto Railways—Acquisition
Exemption—Hampton & Branchville Railroad Company

South Carolina Division of Public Railways d/b/a Palmetto Railways (Palmetto), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to acquire three connecting line segments that constitute the entire rail line of Hampton & Branchville Railroad Company (H&B), a total distance of approximately 45.77 miles in Colleton and Hampton Counties, S.C. (H&B Line): (1) from a connection with CSX Transportation, Inc., at milepost 0.0 in Hampton to milepost 16.8 at H&B Junction, a distance of 16.8 miles; (2) from the end of track at milepost 462.37 in Lodge through H&B Junction and Stokes to the end of track at milepost 443.18 in Walterboro, a distance of 19.19 miles; and (3) from approximately milepost 447 at Stokes to the end of track at milepost 456.78 in Canadys, a distance of 9.78 miles.¹

Palmetto has certified that the transaction does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

¹ Palmetto states that no rail service has been provided on the H&B Line since H&B's final customer ceased rail shipments in December 2012. Palmetto also states that the stub track between H&B Junction and Lodge has not been in service since 1986, and the stub track between Stokes and Walterboro has not been in service since 1989. According to Palmetto, certain trackage on both stubs has been removed, but neither segment has been abandoned.

Palmetto states that its projected annual revenues as a result of this transaction will not result in Palmetto's becoming a Class II or Class I rail carrier, but that its projected annual revenues will exceed \$5 million. Accordingly, Palmetto is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national offices of the labor unions with employees on the affected line, post a copy of the notice at the workplace of the employees on the affected line, and certify to the Board that it has done so. 49 C.F.R. § 1150.42(e). Palmetto's verified notice, however, includes a request to waive that requirement. Palmetto states that H&B has not conducted any rail operations in more than three years and does not have any employees, other than its president. Palmetto asserts that providing the 60-day notice would serve no useful purpose because it is merely acquiring the Line to prevent abandonment. Palmetto's waiver request will be addressed in a separate decision.

Palmetto states that it expects to consummate the transaction on or after August 5, 2016.² The Board will establish in the decision on the waiver request the earliest date this transaction may be consummated.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the

² Palmetto states that H&B and Palmetto have agreed upon the terms of an Asset Purchase and Sale Agreement providing for Palmetto's acquisition of all of H&B's right, title, and interest in the H&B Line. According to Palmetto, the Agreement will be fully executed after Palmetto receives the necessary state agency approvals. Palmetto states that it will concurrently execute a Loan and Security Agreement with Colleton County Intermodal Corporation (CCIC) and Colleton County providing for CCIC's financing of the acquisition transaction through the issuance of economic development revenue bonds.

effectiveness of the exemption. Petitions to stay must be filed no later than May 25, 2016.

An original and 10 copies of all pleadings, referring to Docket No. FD 35995, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV”.

Decided: May 13, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.